UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1995/SR.40
30 November 1995

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirteenth session

SUMMARY RECORD OF THE 40th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 27 November 1995, at 10 a.m.

Chairperson: Mr. ALVAREZ VITA
later: Mr. GRISSA

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GE.95-19771 (E)

The meeting was called to order at 10 a.m.

ORGANIZATION OF WORK (agenda item 2) (continued)

1. The CHAIRPERSON said that unfortunately, for health reasons, he would be unable to rotate with the two other Vice-Chairpersons in replacing the Committee's Chairperson, Mr. Alston, at the next few meetings.

2. Mr. Grissa took the Chair.

CONSIDERATION OF REPORTS (agenda item 4) (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT

Initial report of Mauritius (E/1990/5/Add.21; E/C.12/1995/LQ.5/Rev.1; HRI/CORE/1/Add.60)

3. At the invitation of the Chairperson, Mr. Dedans, Mr. Boolell and Mr. Curé (Mauritius) took their places at the Committee table.

4. Mr. DEDANS (Mauritius) said it had been felt important that, as Ambassador of Mauritius, he should be present during the consideration of his country's initial report. He, the Government and the people of Mauritius looked forward to a dialogue with the Committee from which useful lessons could be drawn. His delegation was ready to answer any questions and provide information with a view to ensuring that the Committee gained a better understanding of the situation in Mauritius. It was worth noting that great strides had been made in the protection of economic, social and cultural rights in Mauritius of late. It was hoped that the dialogue with the Committee would ensure further progress along those lines and thus greater democracy. In that connection, any suggestions or recommendations by members would be most welcome.

5. Mr. BOOLELL (Mauritius) stressed his country's commitment to the rule of law and respect for human rights and said that, as a member of the Organization of African Unity, the Commonwealth and the Movement of Non-Aligned Countries, Mauritius had traditionally been at the forefront of efforts to uphold human rights and fundamental freedoms. The economic performance of Mauritius had improved significantly in the last two decades, as was acknowledged by the Committee in the concluding observations adopted during its eleventh session. Current economic indicators were still promising and the Government firmly believed that economic progress, and hence an enhanced quality of life and better welfare for its citizens, were closely linked to the promotion of democracy and respect for human rights and fundamental freedoms.

6. An entire chapter in the initial report submitted by Mauritius (E/1990/5/Add.21, chapter III) discussed the concerns raised by the Committee at its eleventh session. The Committee's recommendations on that occasion had not fallen on deaf ears and had resulted, inter alia, in the reorganization of the human rights section in the Ministry of Justice, which allowed for better coordination with the other Ministries involved in the preparation of periodic

reports. Mauritius had now effectively caught up with its reporting commitments to the various human rights bodies, including the Committee against Torture, the Committee on the Rights of the Child and the Committee on the Elimination of Racial Discrimination, which was proof that it intended to honour its obligations under the instruments concerned. In recent years much work had been accomplished in compliance with reporting obligations and greater responsibilities had been undertaken in verifying the information to be included in such reports. In that connection, he expressed regret for the delay in the submission of the written replies to the list of issues (E/C.12/1995/LQ.5/Rev.1) and for any inconvenience that might have been caused.

7. It was worth noting two recent developments that would have a major impact on how Mauritius implemented the Covenant. In August 1995, section 16 of the Constitution of Mauritius had been amended so as to dispel any doubts regarding possible discrimination on the ground of gender. As a result of the amendment, any law found to be discriminatory on the basis of gender would be declared null and void. The Constitution stipulated, inter alia, that no law should make any provision that was discriminatory either of itself or in its effect. It was understood that discriminatory meant different treatment for different persons wholly or mainly on the basis of their respective descriptions by race, caste, place of origin, political opinion, colour, creed or sex. The word "sex" had been added to fill the lacuna in the original version of section 16.

8. The second development was the judgement by the Supreme Court on the issue of discrimination. In his view, it represented a giant leap forward in the protection of human rights and fundamental freedoms, for it plainly established that section 16 of the Constitution must be read in conjunction with section 3, which was intended to protect human rights and fundamental freedoms, as well as section 1, which stated that Mauritius was a sovereign and democratic State. He laid special emphasis on the latter point, which ensured that the law of the land must be administered in accordance with the provisions of the Constitution, something that protected the basic rights and fundamental freedoms of the individual. The importance of section 1 was further underscored by the fact that it was virtually impossible to amend. Three quarters of the vote of the electorate in a referendum and a majority in the National Assembly would be required to do so. In that connection, he would point out that general elections were scheduled for 28 December 1995. Under the Constitution, elections must be held every five years, and any change in that respect was subject to the same two-tier procedure as for an amendment to section 1 of the Constitution.

9. The judgement delivered by the Supreme Court in the light of the Constitutional amendment had repercussions on issues such as equal pay and employment conditions and access to the labour market, which also applied to foreign nationals resident in Mauritius. Moreover, it cleared up any misunderstanding regarding the existence of discriminatory legislation in Mauritius. The judgement also laid emphasis on the need to bring the Constitution more into line with international instruments, the provisions of which were universal in application. With regard to chapter 1 of the Constitution, the judgement called for a broad interpretation and suggested that individuals should be given the full measure of fundamental rights and

freedoms listed therein. The two major developments in Mauritian legislation reinforced the country's commitment to human rights issues and underlined the fact that the Constitution was based on two fundamental tenets: the rule of law; and the doctrine of the separation of powers. The amendment to the Constitution and the judgement by the Supreme Court would have a similar impact on the implementation of other international instruments to which Mauritius was signatory. In the dialogue with the Committee, he intended to focus on matters on which members had raised concerns.

10. The CHAIRPERSON invited comments by members, both on the general introduction and on the written replies to the list of issues, which were available only in English.

I. General information

A. Land and people (Issues Nos. 1-2)

B. Legal framework within which human rights are protected (Issues Nos. 3-4)

11. Mr. SIMMA said that the initial report and the oral presentation had shed light on the situation regarding economic, cultural and social rights in Mauritius, and moreover showed that the Government was keen to foster the welfare of its citizens, in accordance with the provisions of the Covenant. As he had drafted the concluding observations in question, he welcomed the fact that the Committee's recommendations had had a positive effect in Mauritius in terms of reshaping and in enacting new legislation. Mauritius had adhered strictly to the Committee's guidelines on drafting the report, which provided an unprecedented wealth of useful information, particularly on housing and health issues. The Government's support for the Optional Protocol to the Covenant was also very gratifying.

12. Mauritius was indeed a special case, for when the Committee had decided to issue concluding observations on the basis of information from, inter alia, from non-governmental sources, the initial report had been 16 years overdue. It would appear that the report had been drafted around the same time as the concluding observations. Accordingly it was regrettable that the Government had failed to inform the Committee that such a report was under preparation; the Committee could have been saved some time and the need to issue concluding observations that might be slightly unbalanced.

13. With regard to paragraph 3 of the concluding observations (E/1990/5/Add.21, in para. 390), the report and additional information provided by the Government did to a large extent set the record straight. However, some questions remained unanswered and there was still problems concerning discrimination on the ground of gender. While the delegation had drawn attention to a constitutional amendment prohibiting gender discrimination, it had failed to mention a provision that section 16 (4) (c) made the prohibition of such discrimination non-applicable in the case of persons of any such description as mentioned in subsection 3 of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters. In other words, one exception appeared to remain regarding the equality of men and women that was now enunciated in the Constitution. He would like some clarification in that regard.

14. Mrs. BONOAN-DANDAN, said she was appreciative of the comprehensive information provided in response to the Committee's list of issues, which she had drawn up, but was disappointed that it had been submitted late. If the information had been received earlier, the Committee would have had more time to assess it properly. The recent developments regarding the prohibition of gender-based discrimination were indeed encouraging, particularly since one of the Committee's principal concerns in its concluding observations was the continuing subordinate role of women in Mauritian society. The Government's investment in human development, free education and the increase in the literacy rate all augured well for the future.

15. Mr. RATTRAY said he associated himself with his colleagues' comments regarding the quantity and quality of the information supplied by Mauritius. The representative of Mauritius had laid great stress on the amendment to the Constitution which sought to eliminate any discrimination or the ground of gender and had referred to the judgement in which the Supreme Court had taken a liberal approach to the interpretation of the Constitution in terms of both its provisions against discrimination and the general provisions contained in section 3. The situation, however, was still not clear. The prohibition of discrimination related to discrimination in terms of State action, but discrimination often took the form of the actions of one individual against another, for example in employment, admission to social clubs, and other arrangements that inhibited the ability of persons to participate on an equal footing in economic and social activities. He would therefore like to know whether the prohibition of discrimination could give rise to a justiciable issue as between individuals in matters not directly involving the State.

16. Ms. TAYA observed that Mauritius had succeeded in reducing population growth from 4 per cent per annum in the 1950s to 0.8 per cent in recent years. Birth control was currently a crucial international issue and she would like to know how far the Government's birth control campaign had been responsible for that development.

17. Mr. SIMMA noted that in paragraph 389 of its report the Government had described the statement that the Committee had made in its concluding observations with regard to discrimination and violence against women as "generalized and provocative". However, a normal reading of the Committee's concluding observation did not lead to that conclusion, since the Committee had stated that "... despite the efforts undertaken by the Government, women still occupy a subordinate role in Mauritian society. Discrimination and violence against women continue to be social problems". The Committee had not stated that the Government of Mauritius was doing nothing to prevent discrimination and violence against women, but merely that such practices continued despite the Government's efforts to stop them.

18. Mr. BOOLELL (Mauritius) replied that the wording of paragraph 389 might not be appropriate. He hoped that there was no misunderstanding. In fact, the Government had introduced a number of measures to stop abuses against women, but they continued to occur. Legislative action had been taken and education had played its part, but prejudices against women still existed. Much progress in advancing the status of women had been made over the past 20 years and was reflected in the large number of mothers who took up jobs. The problem now was to strike a proper balance between the relative importance

for women of the home and of work. Considerable time would be needed for that. All in all, the new legislation, monitoring by the Ministry of Women's Affairs and the action taken by the courts and by NGOs had produced an improvement in the situation.

19. To a large extent, marriages in Mauritius were religious. The relevant provisions of the Civil Code had been introduced in order to give civil effect to such marriages. Mauritius had a multi-ethnic population with a variety of different faiths. A Muslim Council had been instituted and marriages performed by it were expected to have the seal of legality. However, such an arrangement had not yet been approved.

20. Any discriminatory practice with regard to employment or admission to clubs would be unconstitutional. Section 17 of the Constitution provided for redress and claims for compensation, the amount of which would depend upon the circumstances and the evidence. The Labour Act prohibited discrimination in the recruitment and dismissal of workers. There was positive discrimination in favour of disabled persons. More information could be obtained from the judgement to which he had referred earlier. In any case, section 16 of the Constitution had to be read in the light of sections 1 and 3 and no law that ran counter to the Constitution could survive. An interesting judgement had been handed down when it had been found that the Government's last-minute introduction of an oriental language requirement in the secondary school entrance examination had been discriminatory.

21. The birth rate had been greatly reduced and birth control was practised by nearly all the population. The factors that had contributed to that included education, NGO family planning activities, the incorporation of female labour into the workforce and the Government's campaign.

22. The CHAIRPERSON observed that the high population density of Mauritius was probably a great psychological inducement to limit births.

23. Mrs. JIMENEZ BUTRAGUEÑO, recalling the case of a country in which Muslims were allowed to divorce but Roman Catholics were not, inquired whether religious marriages had civil force. She also asked whether adultery was treated as being equally serious for both men and women and how rape was punished.

24. Mr. BOOLELL (Mauritius) replied that religious marriages were a tradition in his country. Now, once such marriages were registered they would be recognized and the terms of the Civil Code would apply to them. Thus, the Civil Code served as a unifying factor for all religious marriages.

25. Violence against women was punishable under the Criminal Code. The Code contained no specific provision to that effect, but such behaviour would constitute an aggravating circumstance. Cases reported to the police would be investigated and the normal legal process would apply. The Ministry of Women's Affairs acted as a watchdog in following up cases of wife-beating. Rape was punished by 20 years' imprisonment. Proceedings against rapists were brought by the Director of Public Prosecutions. Adultery was not a criminal offence, although it might have civil effects in the event of divorce, for instance. In any event, problems of the kind mentioned had not reached

alarming proportions in Mauritius and were under control. As a result of the Fourth World Conference on Women in Beijing, a report on the status of women had been drawn up, copies of which would be made available to the Committee.

26. The CHAIRPERSON, speaking as a member of the Committee, inquired whether, since polygamy was not an offence, the consent of the first wife was required before the husband could marry a second wife.

27. Mrs. JIMENEZ BUTRAGUEÑO asked whether a person could marry solely under civil law.

28. Mr. BOOLELL (Mauritius) said that he had referred to adultery, not polygamy. If a person wanted to enter into a purely civil marriage, with no religious ceremony, he or she could do so. However, in order to be valid all marriages had to be registered. If a marriage was not registered, the children might be regarded as illegitimate.

29. Mr. SIMMA asked whether section 16 (4) (c) of the Constitution could be construed as meaning that if, in the future, owing to some fundamentalist pressure, a Muslim, Hindu or other law discriminating against women for religious reasons was enacted, it would be acceptable.

30. Mr. BOOLELL (Mauritius) replied that no discrimination on the ground of religion, caste, or sex would be constitutional and that any law allowing such discrimination was unlikely to survive in view of the terms of sections 1, 3 and 16 of the Constitution.

C. Information and publicity concerning the rights set forth in the Covenant (Issues Nos. 5-7)

31. Mr. BOOLELL (Mauritius) said that Mauritius would certainly welcome an optional protocol to the Covenant enabling complaints to be submitted regarding violations of economic, social and cultural rights, as a means of making signatory parties further accountable. Regarding issue No. 6, non-governmental agencies had not contributed directly to the preparation of the initial report of Mauritius. However, views expressed by those agencies and channelled through various Ministries were always taken into consideration, and it was always possible for a non-governmental agency to collaborate with the Government in the preparation of a report.

32. The media, non-governmental organizations, and especially the Mauritius College of the Air - a parastatal institution coordinating all distance education activities in the public sector - played a vital role in sensitizing the public to various international human rights instruments. Over the past two years, secondary students had organized a mock National Assembly in which the Prime Minister and various members of the Government had been invited to participate, and it had proved a very successful exercise. Mauritius had a total of 12 daily, weekly and monthly newspapers, which were totally independent of the Executive and played an important role as watchdogs. The population's high level of education also contributed significantly to the widespread public awareness and acquaintance with human rights. All the international human rights instruments were available in public libraries,

and also in the Library of the National Assembly, for consultation by parliamentarians. Real efforts were thus being made to provide information on the rights set forth in the Covenant and to publicize them.

33. Mrs. BONOAN-DANDAN noted that, in its written replies, the delegation of Mauritius referred to promotion of awareness of human rights instruments through the organization of exhibitions, seminars and lectures. No mention was made, however, of any specific publications or of efforts to translate the Covenants into Creole. Furthermore, while the school curriculum included education in human values and education for life, that did not necessarily mean children were taught about human rights per se, or about the Human Rights Covenants. Did any specific publications exist and what was the content of human rights education programmes?

34. Mr. ADEKUOYE asked whether non-governmental organizations had been specifically invited to present their views and concerns to the various inter-Ministry committees involved in preparation of the initial report.

35. Mr. BOOLELL (Mauritius) said that no non-governmental organization had been specifically invited to participate in the preparation of the report, although, as he had already pointed out, there was no objection to their so doing. NGOs took part in the work of various ministerial committees working on legislation in fields such as disability, pensions and industrial relations. No specific publication existed on human rights, other than the human rights fact-sheets that were available. The Bar Chronicle did, however, publish occasional articles on the Covenants. The courses in human values and education for life at primary and secondary educational levels included specific information on human rights as part of their broad approach. As for the translation of the Covenants into local languages, Creole was a dialect spoken by more than 90 per cent of the population, the majority of whom, however, also spoke French and English. Sections of the population also spoke Asian languages such as Bhojpuri, Hindi, Marathi, Tamil and Mandarin Chinese. Having regard to contemporary global realities, Mauritius was proud of its bilingualism, but also sought to promote the ancestral languages as a facet of its cultural identity. It was important not to promote any one of those languages at the expense of the others. English was the medium of instruction in schools, French was widely taught as a subject, and Hindi was also studied. Creole and Bhojpuri were not official languages.

36. Mr. SIMMA said that, in one and the same statement, the Mauritian representative had called Creole both a dialect and a language. The issue was hotly debated in Mauritius, with many complaining that the use of Creole in radio and television broadcasting was limited. Was it the Government's position that Creole was not a language but merely a dialect, undeserving of legal protection? Was the situation similar with regard to Bhojpuri?

37. Mr. BOOLELL (Mauritius) said that, in referring to Creole both as a language and as a dialect, he had used the terms interchangeably. He did not think that there was a problem with regard to its status, nor was its use relegated in any sense. Radio and television news broadcasts were summarized in Creole. If persons wished to speak Creole in an official capacity - when giving evidence in court, for instance - interpretation facilities were always available. Where English and French were not understood, all court

proceedings would take place in Creole. However, Creole was not used in the National Assembly. No official status had been accorded to Creole, to Hindi, to Mandarin Chinese or to the other languages with which sections of the population had cultural links, although all those languages were promoted as part of the nation's cultural identity. Given the multi-ethnic make-up of Mauritian society, it was important to maintain a balance between its various components, without favouring one at the expense of another. Government policy on language was dictated by a practical approach to the circumstances. In any case, there was no consensus as to what constituted standard written Creole.

38. The CHAIRPERSON, speaking as a member of the Committee, said that if English was the official language, then it must be the language of Parliament. Yet French was apparently also spoken in Parliament. Were English and French both official languages? Did everyone in Parliament speak both, or were interpretation facilities needed?

39. Mr. BOOLELL (Mauritius) confirmed that English was the official language, although French was more prevalent. Most parliamentarians spoke both languages, often using them interchangeably.

40. Before 1810, Mauritius had been occupied by the French. When the island had passed to the British, the two colonial Powers had agreed that the British would retain the laws, customs and traditions left by the French. French law had thus developed in parallel to English law. The present system combined features of the Code Napoléon with the English adversarial system of justice, and it was not unusual to find extracts from both legal systems cited in a court pronouncement.

41. Mr. SIMMA said that, as the language of more than 90 per cent of the population, Creole was surely the language in which the vast majority thought and expressed themselves most fluently. Yet he had before him a communiqué in which it was announced that, in pursuance of its policy of promoting the languages in use in Mauritius, the Ministry of Arts, Culture and Youth Development was organizing a short-story-writing competition for 1995, in English, French, Hindi, Urdu, Tamil, Telegu, Marathi and Mandarin. Why were Creole and Bhojpuri not included? Their omission seemed to be a sign of discrimination against the Creole language. Furthermore, according to other information at his disposal, that seemed to be just one instance in a wider pattern of systematic discouragement of the population from expressing itself in Creole.

42. Mr. BOOLELL (Mauritius) said that the reason for the exclusion of Creole and Bhojpuri from the competition was perfectly simple. The languages enumerated by Mr. Simma were taught as options at primary and secondary school level, in order to promote ancestral links. Bhojpuri and Creole were not taught in school.

43. Mr. WIMER ZAMBRANO said that "Creole" was a generic term applied to a variety of dialects spoken in various parts of the world. What were the specific characteristics of Mauritian Creole?

44. Mr. BOOLELL (Mauritius) said that the answer to the question was not straightforward. Mauritian Creole combined elements of the French spoken by the colonial authorities and of the various Indian and African languages spoken by indentured labourers brought to Mauritius after the abolition of slavery. In collaboration with the Indian Ocean region's other universities, the University of Mauritius was conducting research in order to find generally accepted grammatical rules usable as a basis for a standardized written language.

45. Mrs. BONOAN-DANDAN said that she would be grateful if the Mauritian delegation could obtain fuller information for use in the discussions of language issues under articles 13 and 15.

46. The CHAIRPERSON suggested that members should defer any further questions on language issues for consideration under articles 13 and 15.

II. Issues relating to general provisions of the Covenant

Article 2 (2): Non-discrimination (Issues Nos. 8-9)

47. Mr. SIMMA said that the International Labour Organization (ILO) Committee of Independent Experts was concerned about compliance by Mauritius with ILO Convention No. 19, on Equality of Treatment (Accident Compensation), of 1925, which Mauritius had ratified in 1969. That Committee pointed to the existence of discrimination with regard to compensation for accidents at the workplace, in so far as the law did not accord foreign nationals such compensation unless they had lived in Mauritius for a continuous period of not less than two years. In the light of article 2, paragraph 2, of the Covenant, such discrimination would constitute a breach of article 7. Could the Mauritian delegation clarify the position in that regard?

48. Mr. AHMED asked whether, following the August 1995 amendment of the Constitution, women could now transmit their citizenship to their foreign-born children and whether foreign husbands of Mauritian women automatically obtained residence and work permits.

49. Mr. BOOLELL (Mauritius) said that, under the recent amendment to the Mauritius Citizenship Act of 1968, gender discrimination in relation to foreign spouses of Mauritians had been removed and foreign husbands of Mauritian nationals were now treated on an equal footing with foreign wives of Mauritian nationals. That amendment, and the amendment to section 16 of the Constitution, also did away with the obstacles to dual nationality. Any person with a Mauritian parent could automatically acquire Mauritian citizenship. The Ministry of the Interior had very limited discretionary powers to allow or refuse registration as a Mauritian national and the exercise of such discretion was always subject to judicial review. As to Mr. Simma's question, there were no laws that breached the terms of the ILO Convention. Under the amendments to section 16 of the Constitution and to the Mauritius Citizenship Act, foreign nationals with legal work and resident's permits were unequivocally entitled to equal protection of the law. That applied equally to foreign labour imported into Mauritius in certain sectors

of economic activity. As long as such persons were lawfully recruited, under a recognized contract, they were entitled to equal protection and enjoyed the same labour rights as did nationals.

50. Mr. SIMMA specified that he was referring to section 3 of the National Pensions (Non-Citizens and Absent Persons) Order, 1978, as amended, which provided that non-citizens could not be affiliated to the national insurance scheme unless they had resided in the country for at least two years; he asked whether that Order had been rescinded; if it were still in force, it would constitute discrimination within the meaning of the Covenant.

51. Mr. AHMED said, further to his previous question, that he understood foreign husbands of Mauritian women were granted resident's and work permits for a period not exceeding three years. Was that still true and, if so, what was the situation after the three years had elapsed? He would also like information on the case of foreign seamen, who, it was reported, could be forcibly returned to their vessels and compelled to fulfil their contractual obligations.

52. Mr. ADEKUOYE asked whether the statement in paragraph 25 of the initial report (E/1990/5/Add.21) that members of the family of a migrant worker were not allowed to take up employment in Mauritius was still applicable, and if so, whether that provision did not amount to discrimination.

53. Mr. BOOLELL (Mauritius) explained in reply to Mr. Adekuoye's question that the underlying policy was that recruitment of foreign workers was permitted only where no local manpower was available in the sector concerned. A foreign worker was accordingly recruited for a specific job and the right to take up employment was restricted to that person. Members of the family could not, a priori, be employed in Mauritius without the prior approval of the authorities, namely the Ministry of Employment.

54. Mr. Ahmed's comments about the rights of foreign seamen referred no doubt to the provisions of the Merchant Shipping Act, about which he would make inquiries. With reference to Mr. Simma's question about non-nationals' affiliation to the national insurance scheme, his preliminary reaction was that the Order in question was no longer applicable, but he would give a precise answer at a later stage.

55. Mrs. BONOAN-DANDAN said that there seemed to be a contradiction between the statement in paragraph 25 of the initial report, mentioned by Mr. Adekuoye, and certain restrictions on the right to work applicable to non-citizens, mentioned in the Mauritian replies to the issues listed under article 6. Specifically, could it be confirmed whether or not, under certain conditions, members of the family of a migrant worker were allowed to take up employment in the country?

56. Mr. BOOLELL (Mauritius) said the generally applicable rule was that members of a migrant worker's family did not have an automatic right to take up employment since they were on Mauritian soil solely by virtue of their status as a member of that worker's family. Exceptions could be made, however, if a vacancy occurred in a post for which no qualified local manpower was available. In that case, a suitably qualified family member seeking

employment, or an enterprise wishing to employ him or her, would need to apply to the competent authorities with a justification for the proposal.

57. Mr. AHMED said that the statement in the Mauritian replies to issue 10, namely that the recent amendment to the Mauritius Citizenship Act of 1968 had now removed gender discrimination in relation to foreign spouses of Mauritians, gave the impression that a male foreign national married to a Mauritian woman automatically had the right of residence and the right to work in Mauritius. Was that understanding correct?

58. Mr. BOOLELL (Mauritius) replied in the affirmative. Spouses of Mauritian citizens, of whatever sex, were treated on an equal footing with Mauritian nationals and need not apply for a resident's or work permit.

Article 6: Right to work (Issues Nos. 10-14)

59. The CHAIRPERSON pointed out that issue 10 had overlapped to some extent with the previous set of issues and had already given rise to some questions and comments.

60. Mr. CEAUSU, referring to issues 10, 11 and 13, noted with interest the information on the shortage of labour and the recruitment of foreign workers. It seemed to conflict to some extent, however, with the somewhat Draconian restrictions on the employment of foreign nationals under the Employment (Non-Citizens) Restrictions Act 1970, and he would welcome more information on actual practice.

61. While he understood that a foreigner entering Mauritius as a tourist could not apply for a work permit, was there any possibility for members of the liberal professions such as doctors or lawyers, or persons wishing to start small businesses, to apply for a permit to set up practice? Could statistics be provided on the number of job-seekers from abroad and the number of work permits delivered to foreigners, for instance over a period of one year?

62. On the subject of labour legislation ensuring the freedom of choice of employment (issue 13) he queried the statement in the written replies that an employer who offered technical training or a scholarship for further studies might do so under the condition that the person concerned would work in his employ for a certain period of time after his training/studies, that the employer could not require the person to work for him for the rest of his life but that he could do so for a certain period of time. What was the situation if that person, after training, refused to work for that employer or for the specified period? In the information provided on fixed-term contracts, it was stated that an employee under such a contract was not completely free to give up the employment for another before the term of the contract unless he chose to pay damages, but could still be forced to complete his contract. Such coercion might be tantamount to forced labour.

63. Mr. AHMED said that, although it had been established that male foreign nationals married to women of Mauritian nationality automatically had the right to a resident's and work permit, in the replies on the subject of labour legislation and exceptions to the general principle of contract it was stated

that the period for which an alien could be employed would usually be the period for which his permit was valid, and that a work permit was usually for a maximum of three years. What, then, would be the situation on expiry of those three years?

64. The CHAIRPERSON, speaking as a member of the Committee, asked how the figures given on registered unemployment compared with actual unemployment.

65. Mr. RATTRAY, referring to the statement given in the Mauritian replies under issue 13, concerning fixed-term contracts, to the effect that an employee choosing to discontinue his present employment to take up a new appointment could either be sued in damages by the employer or be sued for specific performance, asked whether under Mauritian law a court could compel specific performance of contracts for personal services.

66. Mr. BOOLELL (Mauritius) said that the rules governing contractual employment were subject to the general principles of civil law but also to the provisions of the Labour Act, which to a great extent reflected those of ILO conventions. For instance, a contract with a person under the age of 15 was not valid. As for training and scholarships offered by an employer, there was nothing unusual about training being offered subject to subsequent employment for a certain period. Any breach arising from a contractual obligation would be subject to court action and damages. The word "forced" work was inappropriate: no one was forced into entering into a contract and accepting the contractual obligations arising therefrom.

67. Mr. ADEKUOYE commented that scholarships were awarded in both the public and the private sector. Persons accepting a scholarship were aware of the conditions; if they deemed them unacceptable, they need not apply.

68. Mr. AHMED said that the situation seemed quite clear. If a person applying for a job involving training or work experience abroad, subject to the condition that he worked for that employer on his return, subsequently refused to comply with that condition, he would have to pay damages; that was how the obligation or "force" was exercised.

69. Mr. BOOLELL said that Mr. Ahmed's explanation was correct. As to Mr. Ceausu's question about members of the liberal professions and others wishing to take up self-employment in Mauritius and other questions about the employment of non-nationals, the general policy was that aliens were not entitled to work in Mauritius except in specific fields in which the requisite expertise was not available on the domestic labour market, in which case an application could be made to the authorities by a prospective employer or an individual. Examples of such sectors were the textile, hotel and construction industries. Lawyers were required to have graduated from the University of Mauritius. In the case of doctors, there was no shortage of general practitioners, but under bilateral agreements, teams of specialists in certain fields - an example being open-heart surgery - would be sent to Mauritius for a specified period of time. In conclusion, he said that he would try to obtain statistics on the number of job-seekers from abroad.

The meeting rose at 1.05 p.m.